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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/649,846	08/26/2003	Jack Forbes	5589.00003	7007

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GREENBERG TRAUIG
3773 HOWARD HUGHES PARKWAY
SUITE 500 NORTH
LAS VEGAS, NV 89169

EXAMINER

KARKHANIS, AASHISH

ART UNIT	PAPER NUMBER
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3714

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/31/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

NT

Office Action Summary	Application No.	Applicant(s)	
	10/649,846	FORBES, JACK	
	Examiner	Art Unit	
	Aashish Karkhanis	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 November 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1 – 6, 8 – 12, 14 – 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wood et al. (U.S. Patent 6,342,007 B1) in view of Yoseloff (U.S. Patent 6,227,969 B1).

Regarding Claims 1, 10 and 15, Wood discloses a method and gaming machine including a processor in communication with a random number generator and display (col. 3, lins. 6 – 11), one or more player interfaces (fig. 1) for playing a poker based wagering game including accepting an initial wager, said player receiving five or more random cards from one or more decks of cards (col. 1, lins. 19 – 27; col. 3, lins. 11 – 12; where an ante wager before cards are dealt is an inherent feature of poker games, or where an initial wager before playing a reel game is well known and established in the art of reel games, and where poker cards may be dealt from one or more decks as is well known and established in the art), said player selecting to hold one or more of the five or more random cards (col. 3, lins. 12 – 15), replacing one or more of the non-hold cards with cards needed for partial completion of the royal flush such that the player has a higher probability, of successfully drawing the royal flush after placing the wager than before placing the second wager, randomly replacing, from remaining cards in the one or more decks of cards, each of the player's cards not common to the royal flush (col. 3, lins. 32 – 43; where if four cards are common to a flush, which may also be common to a royal flush, then a

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fifth card of the same suit is drawn, guaranteeing a flush and increasing the chance of completing a royal flush), and awarding said player a payout if a player's final poker hand is the royal flush (col. 3, lins. 43 – 45). Wood does not disclose an additional wager placed before the swapping of cards or a probability of royal flush less than 100 percent when non-Royal flush cards are swapped. However, Yoseloff teaches a poker reel game where if said one or more hold cards is common to a royal flush, providing the player an opportunity to place a wager (fig. 2, elem. 32; where a player may place a wager while holding any hand, including when any cards are common to a royal flush as is well known and established in the art of poker games) in order to create a poker reel game that includes poker style betting rounds in order to more closely simulate a traditional game of poker, but does not teach a non-100 percent probability for swapping cards and achieving a royal flush. However, it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the game of Wood where four cards must be royal flush cards to begin a card swap round with a game where less than four cards must be royal flush cards to begin a card swap round in order to provide more opportunities for a royal flush which would increase excitement for a player. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the game of Wood where four cards must be royal flush cards with a game where less than four cards must be royal flush cards, which would create a probability for achieving a royal flush of less than 100 percent, and further with the analogous reel game with poker features where multiple betting rounds are allowed of Yoseloff in order to provide more opportunities for a royal flush which would increase excitement for a player and rounds in order to more closely simulate a traditional game of poker.

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Regarding Claims 2 and 5, Wood discloses a method wherein if the player places the wager, the non-hold cards are replaced in such a number that the player holds a poker hand having four of the five cards necessary to complete the royal flush (col. 3, lins. 32 – 43; where if four cards are common to a flush, which may also be common to a royal flush, then a fifth card of the same suit is drawn, guaranteeing a flush and increasing the chance of completing a royal flush), wherein pre-established odds are related to the number of player selected hold cards common to the royal flush (col. 3, lins. 43 – 45; where a player is given an award based on a pre-established pay table which inherently has both payout values and odds related to those payout values).

Regarding Claims 3 – 4, 6, 8, 11 – 12 and 16 – 17, Wood discloses a method and a processor wherein if the player places the wager and the player's final hand is not a royal flush, the player continues to be eligible for an award based on the poker ranking of the player's final hand (col. 5, lins. 5 – 20; where an award table based on card combinations is sued for giving awards to a player for winning combinations), wherein the player receives an award if the poker ranking of the player's final hand is a minimum pre-established poker ranking less than the royal flush of a pair of jacks or better (col. 5, lin. 20; where a Pair of Jacks is the minimum value hand which is eligible for an award), wherein the player initially receives five or seven random cards (col. 3, lins. 10 – 12).

Regarding Claims 9 and 14, Woo discloses a method wherein the method is facilitated by an electronic gaming machine (col. 3, lins. 45 – 52).

Regarding Claims 7, 13 and 18, Wood discloses a method wherein pre-established odds are established (col. 5, lins. 5 – 20), but does not disclose a range from 40 to 1 to 50 to 1 on the

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wager. However, it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the electronic poker flush game with a specific pay table of Wood with the pay table as claimed by the applicant in order to change the profitability of a machine for a casino or the entertainment value of a machine for a player.

Response to Arguments

2. Applicant's arguments with respect to claims 1 – 18 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 5,033,744: Royal Flush instant win game.

U.S. Patent 5,332,219: Seven Card Royal Flush game.

U.S. Patent 6,062,980: Poker reel game.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aashish Karkhanis whose telephone number is (571) 272-2774. The examiner can normally be reached on 0800-1630 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (571) 272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR

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system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ARK

A handwritten signature in black ink, appearing to read "Corbett B. Coburn". The signature is fluid and cursive, with a stylized "C" at the beginning and a horizontal line at the end.

CORBETT B. COBURN
PRIMARY EXAMINER